IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

Cr.Appeal No. 429 of 1999

Date of Decision: 9th April, 2007

Ram Jiwan Pandey — Appellant

Versus

Smt. Shri Mangla and another — Respondents

Coram

The Hon'ble Mr. Justice Sanjay Karol,J.

Whether approved for reporting[1]?

For the appellant: Mr.B.N.Misra, Advocate.

For the respondents: Mr.Bimal Gupta, Advocate.

Sanjay Karol, J.(Oral)

This judgment is being dictated in open Court in the presence of the learned counsel for the parties.

There are very unfortunate facts, which have led to the filing of the present appeal.

During the pendency of the petition under Sections 7, 10 and 25 of the Guardian and Wards Act, 1890, filed by the appellant-husband against his wife-respondent No.1, which was registered as Petition No.5/E of 1997 titled as Ram Jiwan Panday vs. Smt. Shri Mangla, appellant filed an application

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Whether the reporters of Local Papers are allowed to see the Judgment?

under Section 340 of the Criminal Procedure Code alleging that the statements of respondent No. 1 and her sister Smt. Sarv Mangla made on oath are false as Master Vibhav is not attending the Army School, Nahan, regularly. Master Vibhav is a child born out of the wedlock of the appellant and respondent No.1.

The main matter was decided by the learned Senior Sub Judge, Sirmaur District at Nahan, on 21.8.1999. This judgment has attained finality in FAO No.344 of 1994 decided on 15.12.2005 by this Court.

While deciding the main matter, learned Senior Sub Judge has held as under:-

> "10. The other witness Shri Krishan Kumar is examined by the petitioner to prove the fact that the minor child is now-a-days prosecuting his study at Army School, Nahan, but he is not going on well in his studies. The copy of the progress report Ex.P-4 to this effect is also placed on record. But the minor Vibhav has recently changed his school from Carmel Convent School to Army School, Nahan, therefore, inference cannot be drawn that in initial stage due to changed circumstances he is not pulling on well in his study at Army school at Nahan. Thus no cogent and credible evidence has been led on record by the petitioner in support of his claim."

The learned Senior Sub Judge, while deciding the application under Section 340, Cr.P.C. vide order dated 21.8.1999 has also held that the statements made by Smt. Shri Mangla Panday and her sister Smt. Sarva Mangla are not untrue or false. Since they have not given false version in their statements as such they are not liable to be dealt with under Section 340, Cr.P.C. I agree with the same.

I see no reason to interfere with the order dated 21.8.1999. The appeal is dismissed.

9th April, 2007 (Sanjay Karol), J.
(C)